

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 032732
ORIGIN NEA-10

INFO OCT-01 AF-08 EUR-12 EA-07 ISO-00 EB-08 H-01 COME-00
JUSE-00 TRSE-00 SIG-01 /048 R

DRAFTED BY NEA/RA:DTMORRISON/LNEA:DSMALL:JR:LL

APPROVED BY NEA:SSOBER

EB:AWATSON

H:PSTAHNKE

COMMERCE/CAGNE:JHEARN

COMMERCE/GC:KKNOWLES (INFO)

NEA/RA:SEPALMER, JR.

JUSTICE:DMARBLESTONE (INFO)

TREASURY:GNEWMAN (INFO)

-----130023Z 025403 /66

R 122355Z FEB 77

FM SECSTATE WASHDC

TO AMEMBASSY ABU DHABI

AMEMBASSY AMMAN

USINT BAGHDAD

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSY SANA

AMEMBASSY TEL AVIV

AMEMBASSY TRIPOLI

INFO AMEMBASSY ALGIERS

AMEMBASSY ATHENS

AMEMBASSY BEIRUT

AMEMBASSY BONN

AMCONSUL DHAHRAN

AMEMBASSY KHARTOUM

AMEMBASSY LONDON

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 032732

AMEMBASSY MOGADISCIO

AMEMBASSY NOUAKCHOTT

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY RABAT

AMEMBASSY ROME

AMEMBASSY TOKYO

AMEMBASSY TUNIS
USMISSION EC BRUSSELS

LIMITED OFFICIAL USE STATE 032732

E.O. 11652: N/A

TAGS: ETRD, PFOR

SUBJECT: ANTI-BOYCOTT LEGISLATION

1. NUMEROUS ANTI-BOYCOTT BILLS HAVE BEEN INTRODUCED DURING FIRST WEEKS OF NEW CONGRESS. FOCUS OF ATTENTION CURRENTLY IS ON STEVENSON/MOYNIHAN BILL (S.69) WHICH FOLLOWS LANGUAGE OF INFORMAL HOUSE-SENATE "COMPROMISE BILL" WHICH WAS NOT ACTED UPON IN FINAL DAYS OF LAST CONGRESS, AND ON IDENTICAL BILLS INTRODUCED BY PROXMIRE/WILLIAMS (S.92) AND BINGHAM/ROSENTHAL (H.R. 1561) WHICH GO SOMEWHAT BEYOND "COMPROMISE BILL" PROVISIONS.

2. ALL THREE BILLS WOULD PROHIBIT WITH CERTAIN EXCEPTIONS:

A) ANY BOYCOTT-MOTIVATED DISCRIMINATION AGAINST A PERSON ON BASIS OF RACE, RELIGION, NATIONALITY RPT NATIONALITY, AND NATIONAL ORIGIN.

B) REFUSALS TO DEAL WITH BOYCOTTED COUNTRY, ITS COMPANIES OR NATIONALS, PURSUANT TO BOYCOTT AGREEMENTS, REQUIREMENTS, LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 032732

OR REQUESTS.

C) BOYCOTT-MOTIVATED REFUSALS TO DEAL WITH OTHERS (E.G., BLACKLISTED SUPPLIERS, SUBCONTRACTORS, INSURERS WHETHER

FOREIGN OR DOMESTIC) EITHER GENERALLY OR WITH REGARD TO TRANSACTIONS WITH A BOYCOTTING COUNTRY.

D) BOYCOTT-MOTIVATED FURNISHING OF INFORMATION ON RACE, RELIGION, NATIONALITY, OR NATIONAL ORIGIN OF ANY OTHER RPT OTHER U.S. PERSON.

E) BOYCOTT-MOTIVATED FURNISHING OF INFORMATION ABOUT PAST, PRESENT, OR PROPOSED BUSINESS RELATIONSHIPS WITH OR IN BOYCOTTED COUNTRY, WITH ITS NATIONALS OR RESIDENTS, OR WITH BLACKLISTED COMPANIES/PERSONS.

3. ALL THREE BILLS WOULD ALLOW FOLLOWING EXCEPTIONS TO ABOVE PROHIBITED ACTIVITIES:

A) COMPLIANCE WITH BOYCOTTING COUNTRY PROHIBITION AGAINST
(1) IMPORT OF GOODS FROM BOYCOTTED COUNTRY OR GOODS PRODUCED BY NATIONALS OR RESIDENTS OF BOYCOTTED COUNTRY (I.E., PRIMARY BOYCOTT AS APPLIED TO GOODS BUT NOT TO SERVICES) OR (2) SHIPMENT OF GOODS TO BOYCOTTING COUNTRY ON CARRIER OF BOYCOTTED COUNTRY OR BY ROUTE OTHER THAN PRESCRIBED BY BOYCOTTED COUNTRY OR RECIPIENT OF SHIPMENT.

B) USE OF POSITIVE DESIGNATION OF COUNTRY OF ORIGIN, NAME OR CARRIER, ROUTE OF SHIPMENT, AND NAME OF SUPPLIER.
C) COMPLIANCE WITH BOYCOTTING COUNTRY REQUIREMENTS RE TRANSSHIPMENTS OF EXPORTED GOODS TO BOYCOTTED COUNTRY OR TO ANY NATIONAL OR RESIDENT OF BOYCOTTED COUNTRY.

D) REFUSAL TO PAY, HONOR, ADVISE, CONFIRM, PROCESS, OR LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 032732

OTHERWISE IMPLEMENT LETTERS OF CREDIT IF BENEFICIARY DOES NOT COMPLY WITH BOYCOTT CONDITIONS -- UNLESS SUCH CONDITIONS INCLUDE REQUIRED ACTIONS PROHIBITED BY U.S. LAW.

E) ALL BILLS WOULD COVER CONTROLLED FOREIGN SUBSIDIARIES AND AFFILIATES OF U.S. COMPANIES.

4. STEVENSON BILL DIFFERS FROM PROXMIRE/BINGHAM BILLS IN RETENTION OF QUOTE COMPROMISE BILL UNQUOTE PROVISION WHICH MAKES INTENT TO COMPLY WITH FURTHER OR SUPPORT A BOYCOTT AN EXPLICIT ELEMENT OF THE STANDARD OF PROSCRIBED CONDUCT. ALSO, STEVENSON BILL ARGUABLY MIGHT NOT PROHIBIT CONTINUED USE OF NEGATIVE CERTIFICATIONS OF COUNTRY ORIGIN, WHILE OTHER VERSIONS CLEARLY WOULD PROHIBIT THEM. STEVENSON BILL ALSO RETAINS QUOTE COMPROMISE BILL UNQUOTE PROVISION WHICH

EXPLICITLY ALLOWS COMPLIANCE BY AN INDIVIDUAL WITH IMMIGRATION OR PASSPORT REQUIREMENTS OF ANY COUNTRY. EFFECT OF ABSENCE OF THIS PROVISION FROM OTHER BILLS IS UNCLEAR.

5. ALL THREE BILLS WOULD MAINTAIN REPORTING AND DISCLOSURE REQUIREMENTS RELATED TO BOYCOTT REQUESTS AND ACTIONS TAKEN BY U.S. FIRMS IN RESPONSE TO SUCH REQUESTS. (LANGUAGE OF NEW RESTRICTIONS AND EXCEPTIONS COULD HAVE SOME IMPACT ON INTERPRETATION OF WHAT CONSTITUTES BOYCOTT REQUEST.)

6. SEVERAL OF PROHIBITIONS/REQUIREMENTS INCLUDED IN THESE THREE BILLS ALREADY ARE COVERED BY EXISTING LAW OR REGULATION (E.G., USDOC PROHIBITION AGAINST RELIGIOUS OR

NATIONAL ORIGIN ACTS OF DISCRIMINATION AND USDOC
REPORTING/DISCLOSURE REQUIREMENTS, PROPOSED BECHTEL CON-
SENT DECREE BAN ON AGREEMENTS/ARRANGEMENTS/UNDERSTANDINGS
TO REFUSE TO DEAL WITH OTHER U.S. PERSONS, AND ITS FURTHER
PROHIBITION AGAINST MAINTENANCE OR USE OF BLACKLIST FOR
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 032732

PURPOSES OF REFUSING TO DEAL).

7. ACCORDINGLY, CHANGES OF PARTICULAR INTEREST CONTAINED
IN THESE BILLS, AS WE READ THEM, ARE:

A) ADDITION OF "NATIONALITY" TO FACTORS OF PROHIBITED
DISCRIMINATION AND TO TYPE OF INFORMATION WHICH FIRMS
MAY NOT SUPPLY ABOUT OTHER PERSONS (E.G., DIRECTORS,
OWNERS, OFFICERS OF FIRMS).

B) PROHIBITION AGAINST REFUSALS TO DEAL WITH A BOYCOTTED
COUNTRY OR WITH NATIONALS OR RESIDENTS OF THE BOYCOTTED
COUNTRY (EXCEPT AS ALLOWED UNDER THE LIMITED PRIMARY
BOYCOTT EXCEPTION).

C) CODIFICATION OF THE BECHTEL ANTITRUST THEORY IN TERMS
WHICH DO NOT IN ALL CASES REQUIRE AN AGREEMENT, ARRANGE-
MENT, OR UNDERSTANDING (LEAVING TO INTERPRETATION WHAT
WILL CONSTITUTE A FINDING OF A BOYCOTT-MOTIVATED REFUSAL
TO DEAL) AND EXTENDING THE ENFORCEMENT OF THE BROADER
REFUSAL-TO-DEAL PROHIBITION TO COVER ANY UNITED STATES
PERSON (I.E., ANY U.S. RESIDENT OR NATIONAL, ANY DOMESTIC

CONCERN, AND ANY FOREIGN SUBSIDIARY OR AFFILIATE OF ANY
DOMESTIC CONCERN WHICH IS CONTROLLED IN FACT BY THE
DOMESTIC CONCERN) WHICH REFUSES TO DEAL WITH ANY OTHER
PERSON (I.E., UNITED STATES OR THIRD COUNTRY). NOTE:
SAME EXTRATERRITORIALITY AS TO ACTS OF U.S. PERSONS APPLIES
GENERALLY IN THESE BILLS.

D) PROHIBITION AGAINST SUPPLY OF BOYCOTT-RELATED INFORMA-
TION (I.E., NEGATIVE CERTIFICATIONS AS TO BLACKLIST STATUS

OF SUPPLIERS, SHIPS, INSURERS OR OTHER PERSONS, INFORMATION
CONCERNING EXISTING OR PAST RELATIONSHIPS WITH BOYCOTTED
COUNTRY AND, IN CASE AT LEAST OF PROXMIRE/BINGHAM BILLS,
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 06 STATE 032732

USE OF NEGATIVE CERTIFICATION RE COUNTRY OF ORIGIN.

E) BANKS COULD BE REQUIRED TO PAY ON LETTERS OF CREDIT CONTAINING PROHIBITED BOYCOTT CLAUSES WITHOUT KNOWING IF THEY COULD COLLECT PAYMENT ON BASIS OF INCOMPLETE DOCUMENTATION SUPPLIED BY BENEFICIARY.

F) ISSUANCE OF REGULATIONS WOULD FOLLOW AND TAKE EFFECT NOT LATER THAN 90 DAYS AFTER ENACTMENT. COMPLIANCE WITH THE NEW LAW AS TO EXISTING CONTRACTS WOULD BE REQUIRED WITHIN 90 DAYS OF ENTRY INTO FORCE OF NEW REGULATIONS.

G) PENALTIES FOR CRIMINAL (KNOWING) VIOLATION OF EXPORT ADMINISTRATION ACT WOULD BE INCREASED FROM DOLS 10,000 TO DOLS 25,000 FOR FIRST OFFENSE AND FROM DOLS 20,000 TO

DOLS 50,000. PROVISIONS ALLOWING SENTENCES OF UP TO ONE YEAR FOR FIRST OFFENSE OR UP TO FIVE YEARS FOR SECOND OFFENSE UNCHANGED. CIVIL VIOLATION PENALTY WOULD INCREASE FROM DOLS 1,000 TO DOLS 10,000.

8. HEARINGS BY SENATE BANKING COMMITTEE ARE SCHEDULED TO BEGIN FEBRUARY 21 ON STEVENSON AND PROXMIRE BILLS, WITH SECRETARY VANCE INVITED TO APPEAR ON FEBRUARY 28. HOUSE INTERNATIONAL RELATIONS COMMITTEE HEARINGS ARE SCHEDULED TO BEGIN FEBRUARY 22 ON BINGHAM-ROSENTHAL BILL, WITH SECRETARY VANCE INVITED TO APPEAR ON MARCH 1.

9. ABOVE IS FOR YOUR INFORMATION ONLY AT THIS TIME.
VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LEGISLATIVE BILLS, BOYCOTTS
Control Number: n/a
Copy: SINGLE
Sent Date: 12-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE032732
Document Source: CORE
Document Unique ID: 00
Drafter: DTMORRISON/LNEA:DSMALL:JR:LL
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770051-0459
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770246/aaaabovl.tel
Line Count: 253
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a40b6ec7-c288-dd11-92da-001cc4696bcc
Office: ORIGIN NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 15-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3334443
Secure: OPEN
Status: NATIVE
Subject: ANTI-BOYCOTT LEGISLATION
TAGS: ETRD, PFOR, US
To: ABU DHABI AMMAN MULTIPLE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/a40b6ec7-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009